



Development of New Rules Concerning Confined Feeding Operations #00-235(WPCB)

Overview

The purpose of this rulemaking is to develop new rules concerning confined feeding operations, including design, construction and operational standards.

Citations Affected

Adds 327 IAC 16.

Affected Persons

Persons who own, design, construct, operate, or close a confined feeding operation, and persons who conduct confined feeding on a smaller scale and cause a water quality violation.

Reason(s) for the Rule

To address water quality concerns related to confined feeding.

Economic Impact of the Rule

A fiscal analysis document was submitted to the Legislative Services Agency for review. It looks at various scenarios based on the size of an operation and whether it is an existing or a new operation. Liquid manure systems are used for the analysis because they are more common and more likely to be impacted by requirements in the draft rule. Construction costs, soil and manure testing, and self-inspection costs are some of the impacts reviewed in the document. The fiscal impact analysis provides a range of costs with an estimate of total statewide costs projected to average about \$1.1 million, dependent on numerous different variables.

Benefits of the Rule

The benefits include increased protection of waters of

- Performance standards
- Applicability to existing confined feeding operations
- Application and approval process for CFO facilities
- Location restrictions and setbacks
- Design specifications
- Construction standards
- Operational standards
- Manure application standards
- Closure requirements

the state, greater public confidence that confined feeding operations are constructed and managed properly, and a consistent and efficient approval process for the regulated community.

Description of the Rulemaking Project

Confined feeding operations (CFO's) are livestock operations where animals are raised entirely within the confines of a building or outside lot or pen. The urine and manure waste generated by animals in such operations is stored in tanks, pits, ponds or lagoons. This waste is eventually removed and applied as a soil amendment and fertilizer to nearby farm fields.

The storage and disposal of waste generated by CFO's have caused a concern for surface water and ground water quality. In 1971, the Indiana legislature passed the Confined Feeding Control Law, which gave the Water Pollution Control Board oversight jurisdiction for CFO's. Currently, IDEM reviews and approves plans for the construction of CFO's. In addition, IDEM provides guidance for the proper operation of these facilities.

In response to renewed concerns about the environmental threats posed by CFO's, IDEM created a workgroup in the summer of 1996 to address these concerns. The Confined Feeding Operations Technical Advisory Workgroup consists of individuals representing various livestock associations, agriculture, citizens, environmentalists, IDEM, the Indiana Department of Natural Resources, the Indiana legislature, and various other interested parties. Many topics of concern were identified and discussed in the meetings of the Workgroup.

The draft rules include the following topics:

Scheduled Hearings

First Public Hearing: September 13, 2000, at 1:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Rooms 4 and 5, Indianapolis, Indiana.

Second Public Hearing: March 14, 2001, at 1:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana.

Consideration of Factors Outlined in Indiana Code 13-14-8-4

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- 1) All existing physical conditions and the character of the area affected.
- 2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- 3) Zoning classifications.
- 4) The nature of the existing air quality or existing water quality, as appropriate.
- 5) Technical feasibility, including the quality conditions that could be reasonably be achieved through coordinated control of all factors affecting the quality.
- 6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:
 - (A) human, plant animal, or aquatic life; or
 - (B) the reasonable enjoyment of life and property.

Consistency with Federal Requirements

The new rules are consistent with federal laws.

Rulemaking Process

The first step in the rulemaking process is a first notice published in the *Indiana Register*. This includes a discussion of issues and opens a first comment period. The second notice is then published which contains the comments and the departments responses from the first comment period, a notice of first meeting/hearing, and the draft rule. The Water Pollution Control Board holds the first meeting/hearing and public comments are heard. The proposed rule is published in the *Indiana Register* after preliminary adoption along with a notice of second meeting/ hearing. If the proposed rule is substantively different from the draft rule, a third comment period is required. The second public meeting/hearing is held and public comments are heard. Once final adoption occurs, the rule becomes effective 30 days after filing with the Secretary of State.

IDEM Contact

Additional information regarding this rulemaking action can be obtained from Chris Pedersen, Rules Development Section, (317) 233-6868 or (800) 451-6027 (in Indiana).